



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9564]

RIN 1545-BJ93

Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property: Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations; correcting amendment.

SUMMARY: This document contains correcting amendments to temporary regulations (TD 9564), which were published in the **Federal Register** relating to guidance regarding deduction and capitalization of expenditures related to tangible property.

EFFECTIVE DATE: **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Merrill D. Feldstein (202) 622-4950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections are under sections 162, 167, 168, and 263 of the Internal Revenue Code.

Need for correction

As published on December 27, 2011 (76 FR 81060), the temporary regulations (TD 9564), contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR part 1

Income taxes, Reporting and recordkeeping requirements

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 USC 7805 * * *

Par. 2. Section 1.162-3 is revised to read as follows:

§1.162-3 Materials and Supplies

(a) through (k) [Reserved]. For further guidance, see §1.163-3T(a) through (k).

Par. 2. Section 1.162-3T is amended by:

1. Revising the third sentence of paragraph (d)(3).
2. Redesignating paragraphs (i) and (j) as (j) and (k), respectively.
3. Redesignating the second paragraph (h), "Accounting method changes" as paragraph (i).
4. In newly redesignated paragraph (j) the second sentence is revised.

The revisions read as follows:

§1.162-3T Materials and supplies (temporary).

* * * * *

(d) * * *

(3) * * * See §1.263(a)-2T for the treatment of amounts paid to acquire or produce real or personal tangible property. * * *

* * * * *

(j) * * * However, a taxpayer may apply §1.162-3T(e) (the optional method of accounting for rotatable and temporary spare parts) to taxable years beginning on or after January 1, 2012. * * *

* * * * *

Par. 3, Section 1.168(i)-1T is amended by:

1. In paragraph (e)(3)(ii)(B), redesignating Example 2(iii) as Example 2(ii).
2. Adding a new sentence at the end of paragraph (m)(2).

The addition reads as follows:

§1.168(i)-1T General asset accounts (temporary).

* * * * *

(m) * * *

(2) * * * This paragraph (m)(2) does not apply to a change to comply with paragraph (e)(3)(ii), (e)(3)(iii) or paragraph (l) of this section.

* * * * *

Par. 4. Section 1.168(i)-8T is amended by:

1. Redesignating the second paragraph (c)(4)(ii)(E) as paragraph (c)(4)(ii)(F).
2. Revising the first sentence of paragraph (g)(3).

The revision reads as follows:

§1.168(i)-8T Dispositions of MACRS property (temporary).

* * * * *

(g) * * *

(3) * * * This paragraph (g)(3) applies only to a taxpayer that uses a reasonable, consistent method to treat each of the asset's components as the asset in accordance with paragraph (c)(4)(ii)(F) of this section. * * *

* * * * *

Par. 5. Section 1.263(a)-2T is amended by:

1. Revising the eighth sentence of paragraph (g)(8) Example 2.
2. Revising the last sentence of paragraph (k).

The revisions read as follows:

§1.263(a)-2T Amounts paid to improve tangible property (temporary).

* * * * *

(g) * * *

* * * * *

(8) Examples. * * *

* * * * *

Example 2. * * * Thus, in order to meet the criteria of paragraph (g)(1)(iv) of this section for Year 1, the total aggregate amounts paid and not capitalized by X under paragraphs (g)(1)(i), (ii), and (iii) of this section must be less than or equal to the greater of \$125,000 (0.1 percent of X's total gross receipts of \$125,000,000) or \$140,000 (2 percent of X's total depreciation and amortization of \$7,000,000). * * *

* * * * *

(k) * * * For the applicability of regulations to taxable years beginning before January 1, 2012, see §1.263(a)-2 in effect prior to January 1, 2012 (§1.263(a)-2 as contained in 26 CFR part 1 edition revised as of April 1, 2011).

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Par. 6. Section 1.263(a)-3T is amended by:

1. Revising paragraph (b).
2. Revising the sixth sentence of paragraph (e)(6), Example 17.
3. Revising the seventh sentence of paragraph (i)(5), Example 20.
4. Revising the third sentence of paragraph (i)(5), Example 22 paragraph (ii).
5. Revising the last sentence of paragraph (i)(5), Example 23.
6. Revising paragraph (q).

The revisions read as follows:

§1.263(a)-3T Amounts paid to improve tangible property (temporary).

* * * * *

(b) * * * For purposes of this section, the following definitions apply:

* * * * *

(e) * * *

(6) Examples. * * *

* * * * *

Example 17. * * * In year 7, X changed its method of accounting to use a 15-year recovery period for the improvement. * * *

* * * * *

(i) * * *

(5) * * *

* * * * *

Example 20. * * * The plumbing fixtures in all the restrooms perform a discrete and critical function in the operation of the plumbing system and comprise a large portion of the physical structure of the plumbing system. * * *

* * * * *

Example 22. (i) * * *

(ii) * * * All the bathtubs, toilets, sinks, and plumbing fixtures in the hotel building perform a discrete and critical function in the operation of the plumbing system and comprise a large portion of the physical structure of the plumbing system. * * *

Example 23. * * * Accordingly, X is not required to treat the amount paid to replace the windows as a restoration of a building system under paragraph (i)(1)(iv) of this section.

* * * * *

(q) * * * The applicability of this section expires on December 23, 2014.

Par. 7. Section 1.263(a)-6T is amended by revising paragraphs (b)(13) and (d) to read as follows:

§1.263(a)-6T Election to deduct or capitalize certain expenditures (temporary).

* * * * *

(b) * * *

(13) Section 193 (tertiary injectants);

* * * * *

(d) Expiration date. The applicability of this section expires on December 23, 2014.

Par. 8. Section 1.1016-3T is amended by revising the second sentence of paragraph (j)(3) to read as follows:

§1.1016-3T Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913 (temporary).

* * * * *

(j) * * *

(3) * * * For the applicability of §1.1016-3(a)(1)(ii) to taxable years beginning before January 1, 2012, see §1.1016-3(a)(1)(ii) in effect prior to January 1, 2012 (§1.1016-3(a)(1)(ii) as contained in 26 CFR part 1 edition revised as of April 1, 2011).

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